



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION IX

IN THE MATTER OF:)
)
Harrington Tools Site)
) U.S. EPA Docket No. 2002- 05
) UNILATERAL ADMINISTRATIVE
Harrington Tools, Inc.,) ORDER FOR THE PERFORMANCE
Respondent) OF A REMOVAL ACTION
)
)
Proceeding Under Section 106(a))
of the Comprehensive Environmental)
Response, Compensation, and)
Liability Act of 1980,)
42 U.S.C. § 9606(a).)
)

I. AUTHORITY

This Unilateral Administrative Order ("Order") is issued pursuant to the authority vested in the President of the United States by Section 106(a) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, 42 U.S.C. § 9606(a), as amended by the Superfund Amendments and Reauthorization Act of 1986, Pub. L. 99-499 ("CERCLA"). The President delegated this authority to the Administrator of the United States Environmental Protection Agency ("EPA" or "Agency") by Executive Order 12580, January 23, 1987, 52 Fed. Reg. 2923, and further delegated it to the Assistant Administrator for Solid Waste and Emergency Response and the Regional Administrators by EPA Delegation Nos. 14-14-A and 14-14-B. This authority has been duly redelegated to the Director, Superfund Division, EPA Region 9 ("Director"), by delegations R9 1290.13 and R9 1290.14 dated September 29, 1997.

II. PARTIES BOUND

1. This Order shall apply to and be binding on Harrington Tools, Inc. ("Respondent"), and its agents, successors and assigns. No change in ownership or operational status will alter Respondent's obligations under this Order. Notwithstanding the terms of any contract or agreement, Respondent is responsible for compliance with this Order and for ensuring that its employees, contractors, and agents comply with this Order. Respondent shall provide a copy of this Order to all contractors, subcontractors, and consultants that are retained by Respondent to perform the work required by this Order within three (3) days after the Effective Date of this Order or within three (3) days of retaining their services, whichever is later.

2. Respondent may not convey any title, easement, or other interest they may have, in any property comprising the Site, as the term "Site" is defined below, without a provision permitting the continuous implementation of the provisions of this Order. If Respondent wishes to transfer any title, easement, or other interest they may have in any property comprising the Site, Respondent shall provide a copy of this Order to any subsequent owner(s) or successor(s) before any ownership rights are transferred. In such case, Respondent shall advise EPA one (1) month in advance of any anticipated transfer of interest.

III. DEFINITIONS

3. Unless otherwise expressly provided herein, the terms used in this Order that are defined in CERCLA or in regulations promulgated under CERCLA shall have the meaning assigned to them in CERCLA or in such regulations. Whenever the terms listed below are used in this Order, or in the exhibits attached hereto and incorporated hereunder, the following definitions shall apply:

"Days" shall mean consecutive calendar days unless expressly stated otherwise. "Working days" shall mean consecutive calendar days other than a Saturday, Sunday, or federal holiday. In computing any period of time under this Order, where the last day would fall on a Saturday, Sunday, or federal holiday, the period shall run until the close of business of the next working day.

"CERCLA" shall mean the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended by the Superfund Amendments and Reauthorization Act of 1986, 42 U.S.C. § 9601 et seq.

"Unilateral Order" or "Order" shall mean this Unilateral Administrative Order, EPA docket number 2002- 05, and all exhibits attached hereto. In the event of a conflict between this Unilateral Order and any exhibit, this Unilateral Order shall control.

"EPA" shall mean the United States Environmental Protection Agency and any successor departments or agencies of the United States.

"National Contingency Plan" or "NCP" shall mean the National Oil and Hazardous Substances Pollution Contingency Plan promulgated pursuant to Section 105 of CERCLA, 42 U.S.C. § 9605, codified at 40 C.F.R. Part 300.

"Paragraph" shall mean a portion of this Unilateral Order identified by an Arabic numeral.

"Response Action" shall be those specific work items the Respondent is required to perform at the Site pursuant to this Unilateral Order, as set forth in Section IX of this Unilateral Order.

"Respondent" shall mean Harrington Tools, Inc.

"Section" shall mean a portion of this Unilateral Order identified by a Roman numeral, unless otherwise stated.

"Site" shall be the facility located at 5420, 5430 and 5440 West San Fernando Road in the City of Glendale, Los Angeles County, California, 90039.

"State" shall mean the State of California, and all of its political subdivisions, including the California Department of Toxic Substances Control ("DTSC").

"United States" shall mean the United States of America.

IV. FINDINGS OF FACT

4. Site Description.

The Harrington Tools Site is located at 5420, 5430 and 5440 West San Fernando Road in the City of Glendale, Los Angeles County, California, 90039. The Site is comprised of a rectangular shaped lot on the east side of West San Fernando Road. (See, Attachment 1.) Chain-link fencing is installed around the Site's perimeter. The Site is bordered by industrial developments across West San Fernando Road to the west and southwest; the Sunland Chemical Superfund Site to the northwest; the Southern Pacific Railroad (the Railroad) and San Fernando Road to the east; and a small area of vacant land and California Avenue to the south. The Harrington Tools Site is situated in a mixed commercial, industrial, and residential area. Residential and commercial developments are located further east approximately one-quarter mile from the Sites.

Adjacent to and northwest of the Harrington Tools Site is the Sunland Chemical Site. Both of these sites were formerly owned and operated by W.R. Grace & Co. and both sites contain elevated levels of asbestos related to the manufacturing of vermiculite related products by W.R. Grace & Co.

Harrington Tools, Inc., owns and occupies three metal buildings on the south end of the former W.R. Grace property. Harrington Tools, Inc., manufactures and distributes hand tools for the building trade. The building at 5440 West San Fernando Road is comprised of an office area and a warehouse (Warehouse building). The building at 5430 West San Fernando Road (Plastics building) is used for plastic molding. This building has a small office area and a larger manufacturing area. Two silos were installed by Harrington outside the southern wall of this building. Tools are manufactured in the third building at 5420 West San Fernando Road (the Tool/Dye building). This building is divided into an office area and a manufacturing area. A storage yard area is located outside the southern wall of the Tool/Dye building.

5. Site Characteristics and Ownership.

Harrington Tools, Inc., owns the real property comprising the Site. Michelle Harrington is the president of Harrington Tools, Inc.

6. Release Characteristics

John A. Volpe National Transportation Systems Center, Environmental Engineering Division ("Volpe") was tasked by EPA's Emergency Removal and Response Branch (ERRB) to perform a Preliminary Assessment and Site Investigation (PA/SI) at the Site to determine the nature and extent of contamination related to asbestos contaminated vermiculite existing at the Site and document those findings in a Focused Removal Assessment Report (hereinafter Volpe Assessment Report) which was submitted to EPA in July of 2001. The results documented in the Volpe Assessment Report for the Site indicate that several media including soils and dust located at the Site facility contain elevated levels of asbestos which present a human health risk. This asbestos is associated with operations of the former owner, W.R. Grace & Co., which included the production of products containing vermiculite derived from Libby, Montana.

Many forms of vermiculite, in particular vermiculite originating from Libby, Montana, are contaminated with a toxic form of asbestos called tremolite-actinolite asbestiform mineral fibers. Exposure to asbestos presents a threat to human health. It can cause asbestosis, a restrictive lung disease which can be fatal, lung cancer and a cancer of the lung lining called mesothelioma. While lung cancer has a number of associated causes, asbestosis and mesothelioma are uniquely associated with exposure to asbestos.

On August 2, 2001, Harrington Tools, Inc., was notified of its possible liability under CERCLA Section 107(a), 42 U.S.C. § 9607(a), for costs incurred to address releases and threats of releases of hazardous substances at the Site facility. At that time, the Respondent was invited to negotiate and enter into an Administrative Order on Consent with EPA pursuant to CERCLA Sections 104, 106(a), 107 and 122, 42 U.S.C. §§ 9604, 9606(a), 9607 and 9622. Respondent has shown no interest in entering into an Administrative Order on Consent.

The asbestos which has been identified at the Site is a "hazardous substances," as defined by Section 101(14) of CERCLA, 42 U.S.C. § 9601(14) and 40 C.F.R. § 302.4 and Table 302.4.

Threats to public health or the environment stem from the potential inhalation of asbestos fibers at the Site. Any physical disturbance of asbestos contaminated soils or dust would cause an airborne release of asbestos which presents an imminent and substantial threat to on-site workers, their families and nearby residents.

V. CONCLUSIONS OF LAW

7. The Site is a "facility" as that term is defined in Section 101(9) of CERCLA, 42 U.S.C. § 9601(9).

8. The Respondent Harrington Tools is a "person" as that term is defined in Section 101(21) of CERCLA, 42 U.S.C. § 9601(21).

9. The Respondent owns title to the subject real property. Harrington Tools, Inc., is a "liable party" within the meaning of Section 107(a), 42 U.S.C. § 9607(a), and is subject to this Order under Section 106(a) of CERCLA, 42 U.S.C. § 9606(a).

10. Asbestos is a "hazardous substances," as that term is defined in Section 101(14) of CERCLA, 42 U.S.C. § 9601(14).

11. The potential for release of hazardous substances from the Site constitutes an imminent and substantial endangerment because of the actual or threatened release of hazardous substances, as the term "release" is defined in Section 101(22) of CERCLA, 42 U.S.C. § 9601(22).

VI. DETERMINATIONS

Based on the Findings of Fact and the Conclusions of Law stated herein, the Director has made the following determinations:

12. That an actual or threatened release of hazardous substances from the Site presents an imminent and substantial endangerment to the public health or welfare or the environment.

13. That conditions at the Site constitute a threat to public health or welfare or the environment based on consideration of the factors set forth in the NCP at 40 C.F.R. § 300.415(b), and that the actions required by this Order are necessary to protect the public health or welfare or the environment.

14. That the actions required by this Order, if properly performed, will be consistent with the NCP, and are appropriate to protect the public health or welfare or the environment.

VII. NOTICE TO THE STATE

15. Pursuant to Section 106(a) of CERCLA, 42 U.S.C. § 9606(a), EPA has notified the state of California of the issuance of this Order by providing a copy of this Order.

VIII. EFFECTIVE DATE

16. This Order is deemed effective beginning December 5, 2001, unless a conference is requested as provided herein. If such a conference is requested, this Order shall be effective the second (2nd) day following the day of such conference unless modified in writing by EPA.

IX. ORDER

17. Based on the Findings of Fact, Conclusions of Law, and Determinations, EPA hereby orders Respondent to perform the specific work set forth below under the direction of the EPA On Scene Coordinator (OSC), and to comply with all requirements of this Order until EPA provides notice that the Response Action is complete.

18. Designation of Contractor. Respondent shall perform the removal action required by this Order by retaining an asbestos abatement contractor(s) to perform the removal action. Respondent shall notify EPA of Respondent's qualifications or the name(s) and qualification(s), specifically its certificate or license information, of such contractor(s) within 20 business days of the effective date of this Order. EPA retains the right to disapprove of any, or all, of the contractors retained by the Respondent. If EPA disapproves of a selected contractor or the

Respondent, Respondent shall retain a different contractor within 20 business days following EPA's disapproval and shall notify EPA of that contractor's name and qualifications within 20 business days of EPA's disapproval. EPA will disapprove of any contractor which does not have the prerequisite license and/or certificate to conduct asbestos abatement work in accordance with State and Federal asbestos management regulations.

19. Within 20 days after the effective date of this Order, Respondent shall designate a Project Coordinator who shall be the main point of contact for the work to be performed and be responsible for administration of all the work required by the Order. Respondent shall submit the designated coordinator's name, address, telephone number, and qualifications to EPA. The Project Coordinator may be an employee of the asbestos abatement contractor overseeing the work at the facility. To the greatest extent possible, the Project Coordinator shall be present on Site or readily available during Site work.

20. Respondent may propose to change the individual(s), contractor(s), or subcontractor(s) retained to direct and supervise the work required by this Order. If Respondent wishes to propose such a change, the Respondent shall notify EPA in writing of the name, title, and qualifications of the proposed individual(s), proposed contractor(s), or proposed subcontractor(s), and such individual(s), contractor(s) or subcontractor(s) shall be subject to approval by EPA. The naming of any replacement(s) by Respondent shall not extend any deadlines required by this Order nor relieve the Respondent of any of their obligations to perform the work required by this Order.

21. EPA has designated Bret Moxley of the EPA, Region IX Emergency Response and Removal Branch as its OSC Representative and Hedy Ficklin as the OSC Alternate. For purposes of this Order and the Harrington Tools Site, the OSC Representative shall have all the powers and authority vested in an OSC as provided in the NCP. Respondent shall direct all submissions required by this Order to the OSC Representative at:

Bret Moxley
U.S. Environmental Protection Agency, Region 9
Mail Code SFD-6
75 Hawthorne Street
San Francisco, California 94105
415-972-3114
Moxley.Bret@epa.gov

All documents, including technical reports, and other correspondence to be submitted by the Respondent pursuant to this Order, shall be sent by over-night mail to the above addressee or to such other addressees as EPA hereafter may designate in writing, and shall be deemed submitted on the date received by EPA. Respondent shall submit two (2) copies of each document to EPA.

22. Work to Be Performed. Respondent shall perform, at a minimum, the following removal action:

23. Soils. Respondent shall address soils containing greater than one percent (>1%) asbestos in the vicinity of Building 3 and Building 4 as identified in Figure 4-1 of the Volpe Assessment Report. Respondent shall excavate and remove all soils containing vermiculite in this area(s). Specifically, Respondent shall address contaminated areas near where the following samples were collected: PAI-00046, PAI-00047, PAI-00049, PAI-00050, PAI-00052, PAI-00053, PAI-00054, and PAI-0057. Respondent shall perform confirmatory sampling or otherwise demonstrate to EPA's satisfaction that all soils containing elevated levels of asbestos were properly addressed through removal or other equivalent mechanism.

24. Dust. High concentrations of tremolite-actinolite asbestos fibers in dust exceeding >10,000s/cm² are located in Building 3 as identified in the Volpe Assessment Report at the Site facility. Respondent shall, using a HEPA vacuum, remove this dust from all upward-facing horizontal surfaces except for the floor, addressing shelving, countertops, window sills, wide-flange beams, girders, etc., where asbestos dust has accumulated in Building 3. Respondent's abatement contractor shall take all precautions and use extreme care to avoid re-suspending asbestos dust into the air.

High concentrations of chrysotile asbestos fibers in dust are present in Building 4 as identified in the Volpe Assessment Report at the Site facility. These asbestos fibers present a potential health risk to inhabitants of these structures. Respondent shall address this substance through the use of a HEPA vacuum, removing this dust from all upward-facing horizontal surfaces except for the floor, addressing shelving, countertops, window sills, wide-flange beams, girders, etc., where asbestos dust has accumulated.

25. All work shall be performed by a qualified asbestos abatement contractor for this response. All work performed by the abatement contractor, including the handling and disposal of asbestos contaminated materials, shall be in accordance with applicable State and Federal asbestos management regulations

26. Respondent shall initiate abatement work within 30 days after EPA receives the asbestos abatement contractor's name and qualifications. All work described herein shall be completed, at a minimum, within 90 days after EPA receives the asbestos abatement contractor's name and qualifications, unless Respondent received a written extension from EPA's OSC. Respondent's failure to complete the work within this time frame shall subject it to statutory penalties and any other statutory or injunctive relief EPA maintains.

27. Final Report. Within 20 days after completion of all removal actions required under this Order, the Respondent, or Respondent's contractor, shall submit to EPA a final report summarizing the actions taken to comply with this Order. The final report shall include a listing of quantities and types of materials removed off-Site or handled on-Site, a listing of the ultimate destination of those materials, a statement that the contractor used the HEPA vacuum as specified herein, a statement that the contractor handled and disposed of all asbestos

contaminated materials in accordance with all applicable State and Federal asbestos management practices, a presentation of the analytical results of all sampling and analyses performed (if any), and accompanying appendices containing all relevant documentation generated during the removal action (e.g., manifests, invoices, bills, contracts, and permits). The final report shall also include the following certification signed by a person who supervised or directed the preparation of that report:

Under penalty of law, I certify that to the best of my knowledge, after appropriate inquiries of all relevant persons involved in the preparation of the report, the information submitted is true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.

28. Off-Site Shipments. All hazardous substances, pollutants, or contaminants removed off-Site pursuant to this Order for treatment, storage, or disposal shall be treated, stored, or disposed of at a facility in compliance pursuant to Section 121(d)(3) of CERCLA, 42 U.S.C. § 9621(d)(3), and the off-site rule at 40 CFR 300.440.

29. Compliance With Other Laws. Respondent shall perform all actions required pursuant to this Order in accordance with all applicable local, state, and federal laws and regulations except as provided in CERCLA Section 121(e) and 40 CFR Section 300.415(i).

30. All work required by this Order shall be conducted in accordance with: CERCLA; the NCP; EPA Region 9 "Guidance for Preparing Quality Assurance Project Plans for Superfund Remedial Projects" (EPA, November 1992); any final amended or superseding versions of such documents provided by EPA; other applicable EPA guidance documents; and any report, document or deliverable prepared by EPA because Respondent failed to comply with this Order.

31. All plans, schedules, reports or other actions that require EPA's approval and are required to be submitted by the Respondent pursuant to this Order shall, after approval by EPA, be incorporated into and enforceable under this Order.

32. EPA will oversee Respondent's activities as specified in Section 104(a)(1) of CERCLA, 42 U.S.C. § 9604(a)(1). Respondent will support EPA's initiation and implementation of activities needed to carry out its oversight responsibilities. Respondent also shall cooperate and coordinate the performance of all work required to be performed under this Order with all other work being performed at the Site, including work performed by EPA, the State, or any other party performing work at the site with the approval of EPA.

33. Respondent shall undertake all actions required by this Order in accordance with the requirements of all applicable local, state, and federal laws and regulations unless an exemption from such requirements is specifically provided under CERCLA or unless the Respondent obtains a variance or exemption from the appropriate governmental authority.

X. NOTICE OF INTENT TO COMPLY

34. Respondent shall, within two (2) days of the Effective Date of this Order, provide written notice to EPA of Respondent's irrevocable intent to comply with this Order. Failure to respond, or failure to agree to comply with this Order, shall be deemed a refusal to comply with this Order.

XI. OPPORTUNITY TO CONFER

35. Respondent may, within two (2) days of receipt of this Order, request a conference with the Chief of the Emergency Response Office in the Superfund Division, or whomever the Chief of the Emergency Response Office may designate. If requested, the conference shall occur within three (3) days of the request, unless extended by mutual agreement of the Parties, at EPA's Regional Office, 75 Hawthorne Street, San Francisco, California.

36. At any conference held pursuant to Respondent's request, the Respondent may appear in person, or be represented by an attorney or other representative. If Respondent desires such a conference, the Respondent shall contact Thanne Cox, EPA Attorney Advisor, at (415) 972-3908.

37. The purpose and scope of any such conference held pursuant to this Order shall be limited to issues involving the implementation of the Response Action required by this Order and the extent to which Respondent intends to comply with this Order. If such a conference is held, the Respondent may present any evidence, arguments or comments regarding this Order, its applicability, any factual determinations on which the Order is based, the appropriateness of any action that the Respondent is ordered to take, or any other relevant and material issue. Any such evidence, arguments or comments should be reduced to writing and submitted to EPA within three (3) days following the conference. This conference is not an evidentiary hearing, and does not constitute a proceeding to challenge this Order. It does not give Respondent a right to seek review of this Order, or to seek resolution of potential liability, and no official record of the conference will be made. If no conference is requested, any such evidence, arguments or comments must be submitted in writing within three (3) days following the Effective Date of this Order. Any such writing should be directed to Thanne Cox, at the following address:

Environmental Protection Agency
75 Hawthorne Street, ORC-3
San Francisco, CA 94105

38. Respondent is hereby placed on notice that EPA will take any action that may be necessary in the opinion of EPA for the protection of public health and welfare and the environment, and Respondent may be liable for the costs of those actions under Section 107(a) of CERCLA, 42 U.S.C. § 9607(a).

XII. ENDANGERMENT AND EMERGENCY RESPONSE

39. In the event of any action or occurrence during the performance of the work that causes or threatens to cause a release of a hazardous substance or that may present an immediate threat to public health or welfare or the environment, Respondent shall immediately take all

appropriate action(s) to prevent, abate, or minimize the threat, and shall immediately notify EPA's OSC Representative, or, if the OSC Representative is unavailable, EPA's alternate OSC. If neither of these persons is available, Respondent shall notify the EPA Emergency Response Unit, Region 9, by calling (415) 947 - 4400. Respondent shall take such action(s) in consultation with EPA's OSC and in accordance with all applicable provisions of this Order.

40. Nothing in the preceding Paragraph shall be deemed to limit any authority of the United States to take, direct, or order all appropriate action to protect human health and the environment or to prevent, abate, or minimize an actual or threatened release of hazardous substances at or from the Site.

XIII. MODIFICATION OF WORK REQUIRED

41. In the event of unanticipated or changed circumstances at the Site, Respondent shall notify the EPA OSC by telephone within twenty-four (24) hours of discovery of the unanticipated or changed circumstances. This verbal notification shall be followed by written notification postmarked no later than three (3) days of discovery of the unanticipated or changed circumstances.

42. The Director may determine that in addition to tasks addressed herein, additional work may be required to address the unanticipated or changed circumstances referred to in Paragraphs 39 and 41. Where consistent with Section 106(a) of CERCLA, the Director may direct, as an amendment to this Order, that Respondent perform these tasks in addition to those required herein. Respondent shall implement the additional tasks that the Director identifies. The additional work shall be completed according to the standards, specifications, and schedules set forth by the Director in any modifications to this Order.

XIV. DESIGNATED PROJECT MANAGERS

43. EPA designates Bret Moxley, an employee of EPA Region 9, as its primary OSC Representative at the Site, who shall have the authorities, duties, and responsibilities vested in the OSC by the NCP. This includes, but is not limited to, the authority to halt, modify, conduct, or direct any tasks required by this Order or undertake the Response Action (or portions of the Response Action) when conditions at the Site present or may present a threat to public health or welfare or the environment as set forth in the NCP.

44. EPA and Respondent may change their respective OSC Representative and Project Coordinator. Notification of such a change shall be made by notifying the other party in writing at least five (5) days prior to the change, except in the case of an emergency, in which case notification shall be made orally followed by written notification as soon as possible.

45. Consistent with the provisions of this Order, the EPA designates Hedy Ficklin as the OSC Alternate, in the event Bret Moxley is not present at the site or is otherwise unavailable. During such times, Hedy Ficklin shall have the authority vested in the OSC by the NCP, as set forth in Paragraph 43 above.

46. The absence of the EPA OSC from the Site shall not be cause for the stoppage of work. Nothing in this Order shall limit the authority of the EPA OSC under federal law.

XV. SITE ACCESS

47. Respondent shall permit EPA and its authorized representatives to have access at all times to the Site to monitor any activity conducted pursuant to this Order and to conduct such tests or investigations as EPA deems necessary. Nothing in this Order shall be deemed a limit on EPA's authority under federal law to gain access to the Site.

XVI. REIMBURSEMENT OF OVERSIGHT COSTS

48. Respondent shall reimburse EPA, on written demand, for all response costs incurred by the United States in overseeing Respondent's implementation of the requirements of this Order. EPA may submit to Respondent on a periodic basis a bill for all response costs incurred by the United States with respect to this Order. Respondent shall, within thirty (30) days of receipt of the bill, remit by cashier's or certified check for the amount of those costs made payable to the "Hazardous Substance Superfund," to the following address:

U.S. Environmental Protection Agency
Region 9, Attn.: Superfund Accounting
Harrington Tools Superfund Site Special Account
P.O. Box 360863M
Pittsburgh, PA 15251

49. Respondent shall send a cover letter with any check and the letter shall identify the Harrington Tools Site by name and make reference to this Order, including the docket number stated above. Respondent shall send simultaneously to the EPA OSC notification of any amount paid, including a photocopy of the check.

50. Interest at the rate established under Section 107(a) of CERCLA shall begin to accrue on the unpaid balance 30 days from the date of the original demand notwithstanding any dispute or objection to any portion of the costs.

XVII. DELAY IN PERFORMANCE

51. Any delay in the performance of any requirement of this Order that, in the EPA's sole judgment and discretion, is not properly justified by Respondent under the terms of this Section shall be considered a violation of this Order. Any delay in performance of any requirement of this Order shall not affect any other obligation of Respondent under the terms and conditions of this Order.

52. Respondent shall notify EPA of any delay or anticipated delay in performing any requirement of this Order. Such notification shall be made by telephone to EPA's OSC within twenty-four (24) hours after Respondent first knew or should have known that a delay might occur. The Respondent shall adopt all reasonable measures to avoid or minimize any such delay. Within three (3) days after notifying EPA by telephone, the Respondent shall provide written notification fully describing the nature of the delay, any justification for delay, any reason why

the Respondent should not be held strictly accountable for failing to comply with any relevant requirements of this Order, the measures planned and taken to minimize the delay, and a schedule for implementing the measures that will be taken to mitigate the effect of the delay. Increased costs or expenses associated with implementation of the activities called for in this Order are not justifications for any delay in performance.

53. If Respondent is unable to perform any activity or submit any document within the time required under this Order, the Respondent may, prior to the expiration of the time, request an extension of time in writing. The extension request shall include a justification for the delay. The submission of an extension request shall not itself affect or extend the time to perform any of Respondent's obligations under this Order.

54. If EPA determines that good cause exists for an extension of time, it may grant a request made by Respondent pursuant to Paragraph 53 above, and specify in writing to the Respondent the new schedule for completion of the activity or submission of the document for which the extension was requested.

XVIII. RECORD PRESERVATION

55. Respondent shall maintain, during the pendency of this Order, and for a minimum of five (5) years after EPA provides notice to Respondent that the work has been completed, a depository of the records and documents required to be prepared under this Order. In addition, Respondent shall retain copies of the most recent version of all documents that relate to hazardous substances at the Site and that are in their possession or in the possession of its employees, agents, contractors, or attorneys. After this five-year period, Respondent shall notify EPA at least thirty (30) days before the documents are scheduled to be destroyed. If EPA so requests, Respondent shall provide these documents to EPA.

XIX. ENFORCEMENT AND RESERVATIONS

56. EPA reserves the right to bring an action against Respondent under Section 107 of CERCLA, 42 U.S.C. § 9607, for recovery of any response costs incurred by the United States related to this Order or otherwise incurred at the Site and not reimbursed by Respondent. This reservation shall include but not be limited to past costs, direct costs, indirect costs, the costs of oversight, the costs of compiling the cost documentation to support oversight costs, as well as accrued interest as provided in Section 107(a) of CERCLA, 42 U.S.C. § 9607(a).

57. Notwithstanding any other provision of this Order, at any time during the Response Action, EPA may perform its own studies, complete the Response Action (or any portion of the Response Action) and seek reimbursement from Respondent for its costs, or seek any other appropriate relief.

58. Nothing in this Order shall preclude EPA from taking any additional enforcement action, including modification of this Order or issuance of additional Orders, or additional remedial or removal actions as EPA may deem necessary, or from requiring Respondent in the future to perform additional activities pursuant to CERCLA, 42 U.S.C. § 9607(a), *et seq.*, or any other applicable law. Respondent shall be liable under CERCLA Section 107(a) for the costs of

any such additional actions.

59. Notwithstanding any provision of this Order, the United States hereby retains all of its information gathering, inspection and enforcement authorities and rights under CERCLA, the Resource Conservation and Recovery Act, or any other applicable statutes or regulations.

60. Notwithstanding compliance with the terms of this Order, including the completion of the EPA-approved Response Action, Respondent is not released from liability, if any, for any enforcement actions beyond the terms of this Order taken by EPA.

61. EPA reserves the right to take any enforcement action pursuant to CERCLA or any other legal authority, including the right to seek injunctive relief, monetary penalties, reimbursement of response costs, and punitive damages for any violation of law or this Order.

62. EPA expressly reserves all rights and defenses that it may have, including the EPA's right both to disapprove of work performed by Respondent and to request the Respondent to perform tasks in addition to those detailed in Section IX of this Order.

63. This Order does not release Respondent from any claim, cause of action or demand in law or equity, including, but not limited to, any claim, cause of action, or demand that lawfully may be asserted by representatives of the United States or the state of California.

64. No informal advice, guidance, suggestions, or comments by EPA regarding reports, plans, specifications, schedules, and any other writing submitted by Respondent will be construed as relieving Respondent of their obligation to obtain such formal approval as may be required by this Order.

XX. SEVERABILITY

65. If any provision or authority of this Order or the application of this Order to any circumstance is held by a court to be invalid, the application of such provision to other circumstances and the remainder of this Order shall not be affected thereby, and the remainder of this Order shall remain in force.

XXI. DISCLAIMER

66. The United States, by issuance of this Order, assumes no liability for any injuries or damages to persons or property resulting from acts or omissions by Respondent, or their employees, agents, successors, assigns, contractors, or consultants in carrying out any action or activity pursuant to this Order. Neither EPA nor the United States shall be held as a party to any contract entered into by Respondent, or their employees, agents, successors, assigns, contractors, or consultants in carrying out any action or activity pursuant to this Order.

XXII. PENALTIES FOR NONCOMPLIANCE

67. Respondent is advised pursuant to Section 106(b) of CERCLA, 42 U.S.C. § 9606(b), that willful violation or subsequent failure or refusal to comply with this Order, or any portion thereof, may subject Respondent to a civil penalty of up to \$27,500 per day for each day

in which such violation occurs, or such failure to comply continues. Failure to comply with this Order, or any portion thereof, without sufficient cause may also subject Respondent to liability for punitive damages in an amount three times the amount of any cost incurred by the government as a result of the failure of Respondent to take proper action, pursuant to Section 107(c)(3) of CERCLA, 42 U.S.C. § 9607(c)(3).

XXIII. TERMINATION AND SATISFACTION

68. The provisions of this Order shall be deemed satisfied on Respondent's receipt of written notice from EPA that Respondent have demonstrated, to the satisfaction of EPA, that all of the terms of this Order, including any additional tasks that EPA has determined to be necessary, have been completed.

Unilateral Administrative Order 2002-__

IT IS SO ORDERED:

UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY

By: Keith A. Takata
Keith A. Takata, Director
Superfund Division
Region 9

Date: 11-21-01

EPA Region 9 Contacts:

Bret Moxley, On-Scene Coordinator Representative
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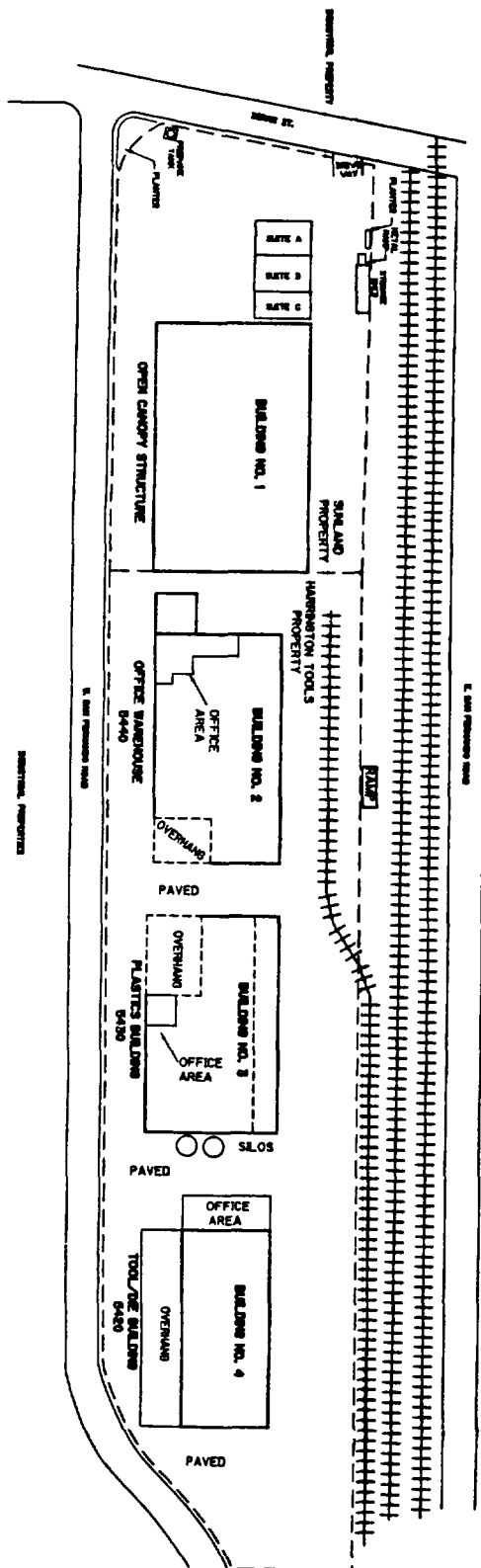
Attachment 1

Site Layout Plan Sunland Chemical and Harrington Tools Sites

LEGEND

--- PROPERTY BOUNDARY/FENCE LINE

++++ RAILROAD TRACKS



NOT TO SCALE

SITE LAYOUT PLAN

SUNLAND/HARRINGTON TOOLS PROPERTIES

FIGURE 5-1

FOCUSED REMEDIAL ASSESSMENT REPORT

FORMER W.R. GRACE FACILITY, GILNORE, CALIFORNIA

DATE: 6/20/01

FILE NO: 01-1-1



CDM

Global Program Corporation